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## JUSTICE IN TIME OF WAR

The Courts-Martial and Military Commissions of the Rebellion Period.

Tribunals Which Administered Prompt and Vigorous Justice—Their Organization and Character—Methods of Procedure.

Not long since, while witnessing a sensational play, which had quite a run in one of our theaters, a man who seemed to have been a veteran in the late unpleasantness, expressed his disgust at a court-martial scene which was an incident in the piece. "Those who know nothing about such courts," he remarked, "will get a very erroneous idea of the character and methods of courts-martial during the late war." And so they would; since in this play the court was anything but one of those carefully constituted tribunals which the greater part of general courts-martial were during the late war, and which they must be in the regular army for the trial of those who are amenable to military authority.

So much has been said to the discredit of these tribunals that there is quite a general impression that they were monsters of injustice and were, in fact, a blot upon the service. Such was not the case. The court-martial and the military commission were a necessity of the war. The former was constituted to try military offenses by military officers, while the commissions, under martial law, tried civilians charged with offenses against the military arm of the service and with treason and like offenses. That was the essential difference. In defense of the courts-martial it may be said that their creation was such as to insure an intelligent consideration of cases brought before such tribunals. The general court-martial was ordered by frequent military authority, division, corps, army or department commander. Such a detail was made from the most intelligent officers in the command, varying in number from six to twelve. Frequent detail for ordinary courts was one lieutenant-colonel, two majors and six captains. Frequently the presiding officer, and nearly always the men comprising the court, were officers who had been lawyers. These, with the judge advocate, the official who generally conducted the examination of witnesses with a view to ascertain the facts in the case, and who was usually an officer who was a lawyer, constituted the ordinary general court-martial to try all offenses charged against officers or men below the rank of the junior officer on the court-martial.

## A COURT MARTIAL IN SESSION.

When there were suitable quarters the court was seated so as to form three sides of a parallelogram, the senior officer in the center of the side opposite that which is open. On the right of the senior officer was the designated president, and the officer next in rank, and on his left the third in rank. The others are disposed of in the same order, so that the officer lowest in rank will be the last on the left of the president, and the next lowest opposite him. The judge advocate sits within the space of which the court constitutes three sides. All the officers of the court sit with side arms, but with covered heads. The court is open while testimony is being taken, but the doors are closed when it is consulting or taking a vote on any question. The Articles of War, the United States Regulations and "Benet on Courts-martial" are all the booksy gear could have. The accused is not only enti-

tled to have members of the court set aside upon reasonable cause, but to employ a counsel; but this was not often the case during the war, except in the trial of officers of high rank upon grave charges. The judge advocate conducts the examination, writing out the questions and answers of witnesses, but any member of the court can ask questions. There are few precedents given in Benet, and they are for general instruction rather than precedents as the term is used in civil courts. If the accused has counsel, he would not be permitted to take unnecessary time or to ask questions of a frivolous nature. Hearsay evidence is carefully excluded. Thus the court is made up, as a rule, of men of more than average intelligence, who can have no possible interest in the cases they try, and whose only purpose in fixing sentence, in case of conviction, is to punish the offender and to afford warning which will tend to strengthen military discipline.

The charges are preferred, as a rule, by a superior officer, who has reason to complain of an officer. Cases are known where charges have been instigated by enlisted men against officers who shirked in battle, and on such charges officers have been dismissed from service. Charges which would be sufficient to insure the dismissal from the service of an officer, like drunkenness on duty, would scarcely be made against an enlisted man. All charges must be approved by the superior officers of those making them, up to the power which appoints the court.

In the formulation of the charges the specifications must be given. The preamble of the general order announcing the action of a court-martial states the authority under which it acted, the name of the president, and concludes with the words "Was arraigned and tried." Then it states the charge.

1—Private John Smith, Company K, One-hundred-and-fortieth Regiment, U. S. Infantry, Charge: Desertion.

Specification: In this, that private John Smith did desert his company and regiment at camp near Stafford Courthouse, on or about the 1st day of June, 1862, and did not return until brought back under guard.

This, May 20, 1863.

## DETAIL OF PROCEEDINGS.

The accused is arraigned and the charge and specifications read to him, whereupon he must plead, as in other courts, both to the specification and then to the charge. Every member of the court is sworn, and also the judge advocate. Then the witnesses are sworn and questioned. Any questions which the accused may desire to put to the witnesses are asked by the judge advocate—all questions and answers being in writing. When all the witnesses have been examined the prisoner is removed and the court proceeds to consider the evidence, the record of questions and answers read over and the points discussed in case they are not clear. This completed, the specification is first read, and each member votes "guilty" or "not guilty," as the evidence convinces him. When the vote is taken, the name of the junior officer of the court is first called. If the accused is found not guilty, the case is closed. If the vote is "guilty," the case is continued until the officer lowest in rank from being influenced by the vote of his seniors. Members are sworn not to discuss the vote of any member of the court. If two-thirds respond "guilty" that is the finding of the court on the specification. Then the vote is taken upon the charge. It frequently happens that, while the court finds the accused guilty of what is set forth in the specification, it finds that he is not guilty of the charge. For instance, it may be proved that a man is absent from his company, but under circumstances which do not make it appear that he intended to desert. In such an event the finding would be not guilty of desertion, but of absence without leave. If the accused is found not guilty, he is not liberated until the officer or officers reviewing the case find that he is not guilty, and then the case is closed. If the verdict is guilty, the court proceeds to fix the sentence. This is not made known until by official order of the officer ordering the court, or if the penalty is death or of a serious nature,

until approved or changed by the official order of the President of the United States. During the earlier days of the war President Lincoln habitually commuted death sentences, except in cases of desertion to the enemy. During the last year, however, a great many deserters were shot to check the desertion of bounty jumpers, and it had a very salutary influence.

Directly after issuing the Emancipation Proclamation quite a number of officers denounced it and declared that they had conscientious scruples against serving in the army thereafter. In a volume of court-martial orders, among many of the same character, the case of a Maine lieutenant is given, the charges and specifications being as follows:

Charge 1—Conduct prejudicial to good order and military discipline.

Specification—In this, that he, the said—, first lieutenant Company C, Nineteenth Maine Volunteers, did tender his resignation while near the enemy, under an allegation or pretext of the inexpediency and unconstitutionality of a proclamation by the President, thereby affording an example deeply injurious to the service, and modeling with the war policy of the government, with which he has nothing to do.

Charge 2—Disloyalty to the government.

Specification—In this, that he, the said—, entertains ideas in opposition to the government and unconstitutionality of one of its leading measures, and stating, further, that he cannot conscientiously serve under it, the said measure being expressly intended to weaken the enemies of the United States.

The court found the accused guilty of both specifications, after excluding all words expressing an opinion on the part of the court regarding the policy of the government, and guilty of both charges. The sentence was death. The court was composed of three officers, one of whom was the president, and the other two were officers of the same rank as the accused. The court was held in a room in the barracks, and the accused was brought there by a guard. The court was composed of three officers, one of whom was the president, and the other two were officers of the same rank as the accused. The court was held in a room in the barracks, and the accused was brought there by a guard.

## THE MILITARY COMMISSION.

As before stated, the military commission was the tribunal before which persons charged with disloyalty were tried. They were often very useful tribunals. In several instances the arraignment of copperhead conspirators before such a court was as effective as an army in the field. It was the military commissions in Indiana that checked the development of the treasonable organization, and the records of the "treason trials" which exposed that conspiracy will ever constitute an interesting chapter in the State's history. Prompt and vigorous justice was demanded in that case, and under such conditions as then existed, the civil courts would have been impotent. It may not have been wise in the end, but if Jefferson Davis had been tried by a military commission he would have been convicted of the treason of which the country believed him guilty, instead of being liberated other because a jury could not be obtained in Richmond that would not commit perjury to save him, or on some technical ground that his action was not treason.

There can be no doubt that the courts-martial of the late war meted out justice. Many times it was not tempered with mercy, but the cases were rare, indeed, in which injustice was done. For character and intelligence they were superior to the average jurors who sit on important cases, and whose leniency or prejudice so often defeat the ends of justice.

## Good Thing for Rounder.

Philadelphia Record.

"It was a wise provision on the part of the persons who wrote the marriage ceremony," observed Rounder just after the wedding of his friend Knicker, "that there is no call for some one to give the groom away. It could give some things away about Knicker."

## DREAMS OF THE SOUTHLAND

Vagrant Reminiscences Inspired by Wandering through a Lazy Climate.

In and Around Historic Lookout Mountain—Vicksburg and the Famous Siege—In Old New Orleans.

Every one has day dreams. Some people dream in the moonlight, some dream out under the shady trees, when the sun shadows are short, and some transport themselves to the mystical realm of air castles, when the golden sun is painting the clouds at sunset. But it matters not when we dream these beautiful day dreams, they all take us to the same land, the land of sweet relaxation. To classify day dreams is to rob them of their beauty, for one dream suggests another, and so on, until the monotony of enrolling them, the soft charm of each individual dream is lost.

As the professional spiritualist tells us that every medium is controlled by a separate spirit, so every dreamer is controlled by one particular dream, while it may not always come to him or her in the idle moments, yet it will appear so frequently that the dreamer of the dream has the sweet mystical vista of the dream photographed on his mind. A day dream more frequently is one that goes far back into the past. It shows no wonderful thing that is to come, it brings no promises; it merely recalls some long-ago event and idealizes it. When a boy the stories of the war impressed themselves strongly on my mind and as the years went by the hazy war days became as beautiful to me as the most grizzled veteran. I thought nothing of the terrible trials and sufferings, I could only see the charging lines over some far-away hill or mountain side, and puffs of smoke from the cannon, the stirring shouts of brave men and the waving of the flag. I was not contented over this scene from a partisan standpoint, for the gray seemed just as dear to me as the blue.

The stories of the war left the same impression as the reading of chapters from a medieval romance, only the impression of the war stories is more lasting. In my boyhood the desire of my life, next to that of being rich and powerful, was to visit some of the scenes of battles and there dream of the past glories of the field. I allowed this fascination to grow until I became a man, and then set out to see, with my own eyes, the fields of which I had dreamed.

There were the engagements at Lookout Mountain and Missionary ridge. The grandeur of the mountain scenery threw an added charm about these historic spots, for the awe of the present time combined with the haze of the past made a scene to be viewed in silence. The dearest intervals in a dreamer's life are those when the mind and heart are too full to find outlet through the tongue. From the top of Lookout mountain the valleys and ridges stretch away until several States appear before the horizon. From the top of Lookout mountain the valleys and ridges stretch away until several States appear before the horizon. From the top of Lookout mountain the valleys and ridges stretch away until several States appear before the horizon.

land. The flashing of bayonets, the low rumbling of artillery, anxious faces peering out from the bushes on the mountain side, occasional sharp notes of rifles—all these come to the mind's eye even after these three decades of peace. Then turn to the right from the river, and beyond a valley is Missionary Ridge. How these battlefields loom up with their Biblical names—Shiloh, Corinth, Manassas. Your guide book points out here a place where one brigade met a desperate resistance, and there another spot where a noted general fell, and so on, but when you tell the old soldier about it afterwards he denies your knowledge of localities. It matters little to the dreamer whether Colonel Smith's regiment fell back on the river or the other side of the mountain; the dreamer cares more for the spot where a young officer died with his sweetheart's name on his lips.

The dream at Vicksburg is from the high hill where thousands of the fallen Blue sleep. There is no serpentine river below as at the base of Lookout; rather a muddy lake, the other side of the mountain; the dreamer is formed in large part by the engineering of General Grant when he attempted to switch the Mississippi away from the city on the high bluff. In one high spot in the National Cemetery is a small white monument, chipped on the edges. This was the stone that marked the spot where the sword of General Pemberton was hurled to the ground. The stone was formerly the pedestal of a statue of the martial hero of the West. The stone formerly stood on a bluff back of the city, but the relic hunters and other vandals made it necessary to remove the stone to the cemetery, where it means nothing at all. Probably in every national burying ground of the country is a tablet bearing the immortal:

On Fame's eternal camping ground

Their silent tents are spread,

And glory guards the solemn round

The bivouac of the dead.

In this burying ground at Vicksburg, where the thousands slain have long turned to dust, the tablet confronts the visitor at the entrance, and the words seem to impart a more solemn meaning and sentiment than in the Northern cemeteries far removed from the scenes of the war. The cemetery is the river on whose bosom floated the dreadful engines of war. Above, on a higher bluff, the lines of the army were once arrayed in battle, which be now that a spectral army of the vanquished looks down on the spectral army of the victors. Here and there in the sacred place is a gloomy cypress, whose some bushy, flowering plant, in early June the air is burdened with the fragrance of the magnolias, and to walk through this cemetery at twilight as the languorous breezes are bearing down the odors of the free flowers to the path, is to know a feeling too restful and too dreamy to describe. No one but a Philistine would think of ghosts at such an hour. Ghosts only appear before people who demand manifestations of spirits in the concrete, people who cannot at times grasp the elusive subtlety. A glorious sunset can be seen from the cemetery ridge, and as the ball of the sun sinks beyond the river it throws up a mighty flame from the cup of cottonwood and willows that line the far bank of the river. Vicksburg is a home for a dreamer. To reach the main street from the river or from the railroad necessitates a long climb, and people who have to induce in long climbs in a southern country are not the most active people in the world. There are many pretty homes, some of them old mansions, and everywhere in the spring is a profusion of roses and honeysuckle running riot over trellises and fences. It is a typical Southern river town, although not so beautiful or so romantic as Natchez.

New Orleans! There is the place for the dreamer. One feels, with John Boyle O'Reilly, that "The dreamer lives forever, and the toiler dies in a day." From the flower gardens at Carrollton, where the mighty river begins to bend, down to Chalmette, where the irresistible current sweeps above the level of the country, is a small nation of dreamers. There is a clanking of sugar-mill machinery and arduous toil for the many, as in the North, but no set of people, know how to enjoy life when the hours of rest come like those people do. At Chalmette is another burying ground where the veterans lie. The negroes on the

old Spanish plantations near Chalmette, during the early part of the war, saw a panorama of "Abraham Lincoln's" gunboats going towards the city, and occasionally the boom of the long toms came from the sides of the ships, but there was no mighty struggle between the armies. This region had already seen the terrors of heavy fighting years before, when Old Hickory held the British at bay by the piles of cotton. Over beyond Chalmette is an incomplete monument to the hero of the battle of New Orleans and almost within its shade are the graves of soldiers of another generation. Here the orange flowers furnish the fragrance, aided by the magnolia fricassee and other semi-tropical blooms. Beyond the brick walls of the cemetery are marches cut up by little bayons, where the pickaninnies fish for goggle eyes. Along the river roadway that leads to the gates, surrounded by heavy cannon balls, are queer old Spanish houses, square and surrounded by broad galleries, supported by massive, fluted white columns. Dwarf palm grow everywhere. This is a great country to dream in, but if one wanders from place to place, one is apt to get clear to the clouds in his dreaming, and the fall to prosaic Indianapolis will shake up one's bones. After all, if you will dream and have no faraway place where you can dream, just get out on the porch after the sun has gone down, doze for a little while, and by and by you will be with the purple clouds that lined the horizon just before your head toppled over on your breast, and the world slipped away. GAVIN LODGE PAYNE.

The Situation in Hawaii.

Col. Clans Spreckels spent a few days last week on Kauai, laboring to persuade the planters on that island to unite with him in opposing annexation. In moments of irritation Mr. Spreckels utters threats of restoring the Queen. Probably he does not seriously contemplate such an attempt; but his language has kindled afresh the dying hopes of the royalists. In view of his great energy and wealth, he is a formidable factor in the struggle to learn of the ignominious failure of his attempt to embarrass the government by suddenly demanding the payment of \$500,000 of overdue debt, which he had before voluntarily offered to let run on indefinitely. The business men of Honolulu had eagerly come to the aid of the government and had advanced the money.

The Sugar Trust have employed Spreckels as the Herald has Northrup in the same cause of defeating the annexation of Hawaii to the United States, and choking down this splendid flower of American civilization in the Pacific in the interest of a sugar monopoly. It remains to be seen whether the Washington administration are also on their side or not. We are somewhat weary of this long waiting to find out, but are consolidating our defenses and stand to our guns. God has wonderfully saved Hawaii many times before, and we doubt not he will do it again.

## Not Worth Much, Anyway.

Chicago Tribune.

"Mister," said the greasy man in the doorway, plaintively, "could ye spare a dollar to help a poor man along?" "I think I could," answered the man at the desk, drawing a silver dollar from his pocket, looking fondly at the coin, and dropping it back again, "but I'm not going to do it." "Keep it," rejoined the greasy caller in a husky voice; "keep it! It's all worth as cents!"

## He Would Wait.

New York Times.

"If you go first," murmured the wife of his bosom to the sick man, "you will wait for me on the other shore, will you not, love?" "I s'pose I'll have to," he grumbled, "I never went anywhere yet without having to wait for you at least half an hour."

## "ADMIRAL."

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